



4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 228 and 231

[Docket No. FRA-2004-17529; Notice No. 9]

RIN 2130-AB94

Inflation Adjustment of the Aggravated Maximum Civil Monetary Penalty for a Violation of a Federal Railroad Safety Law or Federal Railroad Administration Safety Regulation or Order; Correction

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule; correcting amendments.

SUMMARY: On April 24, 2012, FRA published a final rule, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, which increased the aggravated maximum civil monetary penalty that the agency will apply when assessing a civil penalty for a violation of a railroad safety statute, regulation, or order under its authority. See 77 FR 24416. In preparing that final rule for publication, three errors were made as described in the Supplementary Information. FRA is correcting these minor errors so that the final rule clearly conforms to FRA's intent.

DATES: The corrections to the final rule are effective on June 25, 2012.

FOR FURTHER INFORMATION CONTACT: Veronica Chittim, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue, SE., Mail Stop 10, Washington, DC 20590 (telephone 202-493-0273), veronica.chittim@dot.gov.

SUPPLEMENTARY INFORMATION: Three errors were included in the final rule published on April 24, 2012. See 77 FR 24416. FRA failed to account for an October 31, 2011 amendment to 49 CFR part 228. The October 31, 2011 amendment to part 228 redesignated § 228.21, “Penalties,” as § 228.6, and removed and reserved § 228.21. See 76 FR 67073, 67087-88. In preparing the April 24, 2012, final rule for publication, FRA instructed that the numerical amount “\$100,000” be removed from 49 CFR 228.21 and the numerical amount “\$105,000” be added in its place. The instruction should have directed the removal of the numerical amount “\$100,000” from 49 CFR 228.6 and the addition of “\$105,000” in its place. Additionally, FRA inadvertently transposed two numbers, in instructions 66 and 67, by instructing changes to the numerical amounts at “213.146.A” in appendix A to part 231. See 77 FR 24416. The final rule should have instructed that the changes be made to “146.A”. FRA is correcting these minor errors so that the final rule clearly conforms to FRA’s intent.

List of Subjects

49 CFR Part 228

Administrative practice and procedure, Buildings and facilities, Hazardous materials transportation, Noise control, Penalties, Railroad employees, Railroad safety, Reporting and recordkeeping requirements, Sanitation.

49 CFR Part 231

Penalties, Railroad safety.

The Final Rule

In accordance with the foregoing, parts 228 and 231, of subtitle B, chapter II of title 49 of the Code of Federal Regulations are corrected by making the following correcting amendments:

PART 228—[AMENDED]

1. The authority citation for part 228 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 21101-21109; Sec. 108, Div. A, Pub. L. 110-432, 122 Stat. 4860-4866; 49 U.S.C. 21301, 21303, 21304, 21311; 28 U.S.C. 2461, note; 49 U.S.C. 103; and 49 CFR 1.49.

§ 228.6 [Amended]

2. Section 228.6 is amended by removing the numerical amount “\$100,000” and adding in its place the numerical amount “\$105,000”.

PART 231—[AMENDED]

3. The authority citation for part 231 continues to read as follows:

Authority: 49 U.S.C. 20102-20103, 20107, 20131, 20301-20303, 21301-21302, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.49.

Appendix A to Part 231—[Amended]

4. Appendix A is amended by:
 - a. Removing the numerical amount “650” from the entry at 146.A and adding in its place the numerical amount “1,000”; and
 - b. Removing the numerical amount “1,000” from the entry at 146.A and adding in its place the numerical amount “2,000”.

Issued in Washington, DC on _May 1, 2012_____.

Robert C. Lauby,
Acting Associate Administrator for Railroad Safety/Chief Safety Officer, Federal
Railroad Administration.

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